

AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 7/6/2010
FROM: Faith G. Miller, City Manager **AGENDA ITEM:** 10 - A
SUBJECT: Request for approval of staff proposal for City rebate of additional homestead exemption tax benefits to qualified low income seniors.

LOCATION:

N/A

BACKGROUND:

On August 17, 2009, the City Commission adopted Ordinance No. 14-2009 which by its terms increased the additional homestead exemption for qualifying persons and property from \$25,000 to \$50,000. The City did not deliver a copy of this Ordinance to the Property Appraiser by December 1, 2009 as required by State law. As a result, this additional exemption cannot be reflected in the tax rolls for the upcoming fiscal year 2010-2011 as originally intended by the City Commission. Staff now proposes an alternative method to accomplish the spirit of the original City Commission directive. Staff would like to issue rebate checks to all affected individuals in an amount equal to the tax benefit that would have been received had this information been reflected on the current tax rolls.

If approved, City staff will issue checks in October 2010 and unless instructed otherwise will not issue checks for amounts less than \$1. A copy of the City Attorney's legal opinion on this matter is attached.

**ORIGINATING
DEPARTMENT:**

Finance Department

SOURCE OF FUNDS:

General Fund Ad Valorem Tax

COST:

Depends upon final adopted millage rate but is not expected to exceed \$90,000.

REVIEWED BY:

Finance Director; City Attorney

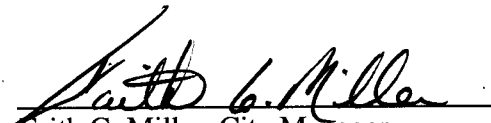
**STAFF
RECOMMENDATION
PRESENTED BY:**

Robert Clinger, Finance Director - Staff recommends the City Commission direct staff to send rebate checks in October 2010 to all qualified persons in an amount equal to the tax benefit they would have received had the additional homestead exemption been reflected on the upcoming tax rolls.

**POTENTIAL
MOTION:**

"I move to direct City staff to send rebate checks in October 2010 to all qualified persons in an amount equal to the tax benefit they would have received had the additional homestead exemption granted by City Ordinance No. 14-2009 been reflected in the upcoming tax rolls for fiscal year 2010-2011."

**AGENDA ITEM
APPROVED BY:**


Faith G. Miller, City Manager

ATTACHMENTS:

- Legal opinion

MEMORANDUM

TO: ROBERT CLINGER

FROM: GARY J. COONEY

RE: ADDITIONAL HOMESTEAD EXEMPTION

DATE: JUNE 15, 2010

A request has been made for an opinion on the legality of issuing checks to those persons who would otherwise qualify for the additional homestead exemption which was authorized by the City Commission on August 17, 2009 by the adoption of Ordinance No. 14-2009, but who will not receive the additional exemption in 2010 due to the ordinance not being timely filed with the Property Appraiser.

BACKGROUND

The City Commission adopted Ordinance No. 14-2009 on August 17, 2009 which by its terms increased the additional homestead exemption for qualifying persons and property to \$50,000. In addition to all of the other requirements imposed by Section 196.075 for validity, there is a requirement which requires the City to deliver a copy of the ordinance to the property appraiser no later than December 1 of the year prior to the year the exemption will take effect. Ordinance No. 14-2009 was not delivered prior to December 1 of 2009. This non-delivery has eliminated the possibility of the increased exemption being processed on the tax rolls this year. However, a prior attorney indicated to city staff that it might be possible for the City to issue checks to those homesteaders who would have otherwise received the additional exemption to provide the same monetary benefit as the additional exemption.

ISSUE

Whether the City may issue rebate checks to those homesteaders who would have otherwise received the additional exemption to provide the same monetary benefit as the additional exemption outside of the uniform tax system established by State Constitution.

ANALYSIS

A municipality may only levy taxes consistent with the Florida Constitution and State law. The legislature has preempted the field of ad valorem.

According to Article VII of the Florida Constitution, municipalities are only allowed to levy taxes if such levy is consistent with the Constitution and State law. The most familiar form of municipal taxation is the ad valorem taxation of real estate. In order to meet such consistency

standards, a municipality establishes a uniform millage rate to support its budget which is then applied to all taxable properties. There is some allowance for a municipality to determine some limited exemptions for homesteads and some limited exemptions for businesses. In this instance the City previously determined to allow an additional \$25,000 exemption to persons 65 and over with a household income of \$20,000 or less. Ordinance 14-2009 increased the additional \$25,000 to an additional \$50,000. Under this scenario, a qualifying person and property would have the following exemptions

- a) the first \$25,000 of value [§196.031 (1)(a), Florida Statutes - regular homestead];
- b) the second \$25,000 of value [§196.075, Florida Statutes - first \$25,000 of senior exemption];
- c) the third \$25,000 of value [§196.031 (1)(b), Florida Statutes - additional regular homestead]; and,
- d) the fourth \$25,000 of value [§196.075, Florida Statutes - second \$25,000 of senior exemption].

In other words, the additional \$25,000 added by Ordinance 14-2009, will only come into play for those persons 65 and over with a household income of \$20,000 or less whose homes are valued at over \$75,000. Based upon the property appraiser's records, an estimated 1129 parcels of property fall within this category. Of those 1129 parcels, only 294 are above \$100,000, and would thus receive the full benefit of the additional exemption. In other words, 835 parcels will receive only partial benefit. The total amount which would have been saved by the owners of all of the parcels at the current millage rate is estimated at \$87,707.67. Some of these owners will receive less than \$1.00 in benefit while the owners of property with an assessed value of over \$100,000 will receive approximately \$135.94.

There appear to be no reported cases of a governmental entity missing the December 1 deadline and issuing checks to the affected persons. Generally, in order for a reported case to exist, the government would have missed the deadline, elected to pay the difference to qualifying persons, had someone challenge the payment, received a final judgment, and had the final judgment appealed. Apparently, this has not occurred.

In this instance, the refund of the benefit which was conferred by the Commission as authorized by law is probably allowable although it will occur outside of the formal system of exemption due to the late filing of the ordinance. The substance of the transaction will remain the same although the form will not.